

1 DAVID L. HENKIN (*Pro Hac Vice*)
2 EARTHJUSTICE
3 850 Merchant Street, Suite 400
4 Honolulu, Hawai'i 96813
5 T: (808) 599-2436 / F: (808) 521-6841
6 Email: dhenkin@earthjustice.org

7 KIMBERLYN K. KING-HINDS (F0495)
8 LAW OFFICE OF KIMBERLYN K. KING-HINDS
9 P.O. Box 520064
10 San Jose Village
11 Tinian, MP 96950
12 Telephone No.: (670) 484-1117
13 Email: kkinghinds@gmail.com

14 Counsel for Plaintiffs

15 IN THE UNITED STATES DISTRICT COURT

16 FOR THE NORTHERN MARIANA ISLANDS

17 TINIAN WOMEN'S ASSOCIATION;
18 GUARDIANS OF GANI'; PÅGAN WATCH
19 and CENTER FOR BIOLOGICAL
20 DIVERSITY,

21 Plaintiffs,

22 vs.

23 UNITED STATES DEPARTMENT OF THE
24 NAVY; RAY MABUS, Secretary of the
25 Navy; UNITED STATES DEPARTMENT
OF DEFENSE; and ASHTON CARTER,
Secretary of Defense,

Defendants.

) Civil Action No. 1:16-cv-00022

) PLAINTIFFS' REQUEST FOR JUDICIAL
) NOTICE RE: PLAINTIFFS' OPPOSITION TO
) UNITED STATES' MOTION TO DISMISS FOR
) LACK OF JURISDICTION; EXHIBITS "A" – "O;"
) CERTIFICATE OF SERVICE

) Hearing

) Date: January 12, 2017

) Time: 9:00 a.m.

26 PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE RE: PLAINTIFFS'
27 OPPOSITION TO UNITED STATES' MOTION TO DISMISS FOR LACK OF JURISDICTION

Pursuant to Rule 201 of the Federal Rules of Evidence, Plaintiffs Tinian Women's Association, Guardians of Gani', PaganWatch and the Center for Biological Diversity (collectively, "Plaintiffs") hereby request that this Court take judicial notice of the documents listed below and their contents.

Rule 201 permits a court to take judicial notice of an adjudicative fact "not subject to reasonable dispute" because the fact is either (1) "generally known within the trial court's territorial jurisdiction" or (2) capable of accurate and ready determination by resort to sources "whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b).

The documents listed below can be judicially noticed because they are contents of the Federal Register, Defendants' own environmental impact statements ("EISs"), or other official documents that are not subject to reasonable dispute. See 44 U.S.C. § 1507 ("The contents of the Federal Register shall be judicially noticed"); Consol. Salmonid Cases, 688 F. Supp. 2d 1013, 1016-17 (E.D. Cal. 2010) (taking judicial notice of EIS and biological opinion); San Luis & Delta-Mendota Water Auth. v. Salazar, 686 F. Supp. 2d 1026, 1032 (E.D. Cal. 2009) (taking judicial notice of draft EIS and other "public documents published by administrative bodies and readily available on the internet"); Denius v. Dunlap, 330 F.3d 919, 926-27 (7th Cir. 2003) (taking judicial notice of information on website of government agency); United States ex rel. Dingle v. BioPort Corp., 270 F. Supp. 2d 968, 972 (W.D. Mich. 2003) (proper to take judicial notice of "public records and government documents available from reliable sources on the Internet").

1. The U.S. Navy's Final Supplemental Environmental Impact Statement, Guam and Commonwealth of the Northern Mariana Islands Military Relocation (2012 Roadmap Adjustments) (dated July 2015) ("SEIS"), excerpts from a true and correct copy of which are attached hereto as Exh. "A." The complete document is available on the Department of the Navy's website for the SEIS, at <http://guammarines.s3.amazonaws.com/static/seis.html> (last visited December 11, 2016).

2. Appendix D to the Navy's SEIS, excerpts from a true and correct copy of which are attached hereto as Exh. "B." The complete document is available on the Department of the Navy's

1 website for the SEIS, at

2 [http://guammarines.s3.amazonaws.com/static/SEIS/Appendix%20D.%20Socioeconomic%20Impact%20](http://guammarines.s3.amazonaws.com/static/SEIS/Appendix%20D.%20Socioeconomic%20Impact%20Assessment%20Study%20%28SIAS%29.pdf)
3 [Assessment%20Study%20%28SIAS%29.pdf](http://guammarines.s3.amazonaws.com/static/SEIS/Appendix%20D.%20Socioeconomic%20Impact%20Assessment%20Study%20%28SIAS%29.pdf) (last visited December 11, 2016).

4 3. Volume 1 of the Navy's Final Environmental Impact Statement for the Guam and CNMI
5 Military Relocation (dated July 2010) ("FEIS"), excerpts from a true and correct copy of which are
6 attached hereto as Exh. "C." The complete document is available on the Department of the Navy's
7 website for the SEIS, at

8 [http://guambuildupeis.us/documents/final/volume_1/Volume_1_Overview_of_Proposed_Actions_and](http://guambuildupeis.us/documents/final/volume_1/Volume_1_Overview_of_Proposed_Actions_and_Alternatives.pdf)
9 [Alternatives.pdf](http://guambuildupeis.us/documents/final/volume_1/Volume_1_Overview_of_Proposed_Actions_and_Alternatives.pdf) (last visited December 9, 2016).

10 4. The Navy's Record of Decision for Guam and CNMI Military Relocation (dated
11 September 2010), excerpts from a true and correct copy of which are attached hereto as Exh. "D." The
12 complete document is available on the Department of the Navy's website for the SEIS, at
13 http://guambuildupeis.us/documents/record_of_decision/Guam_Record_Of_Decision_FINAL.pdf (last
14 visited December 9, 2016).

15 5. The Navy's Notice of Intent To Prepare a Supplemental Environmental Impact Statement
16 for a Live-Fire Training Range Complex on Guam To Support the Guam Military Relocation, 77 Fed.
17 Reg. 6,787 (Feb. 9, 2012), a true and correct copy of which is attached hereto as Exh. "E."

18 6. Volume 2 of the Navy's FEIS, excerpts from a true and correct copy of which are
19 attached hereto as Exh. "F." The complete document is available on the Department of the Navy's
20 website for the SEIS, at

21 http://guambuildupeis.us/documents/final/volume_2/Volume_2_Marine%20Corps%20Relocation_Gua
22 [m.pdf](http://guambuildupeis.us/documents/final/volume_2/Volume_2_Marine%20Corps%20Relocation_Guam.pdf) (last visited December 9, 2016).

23 7. The Navy's Notice of Intent To Prepare a Supplemental Environmental Impact Statement
24 for the Guam and Commonwealth of the Northern Mariana Islands Military Relocation (2012 Roadmap
25

Adjustments) and Notice of Public Scoping Meetings, 77 Fed. Reg. 61,746 (Oct. 11, 2012), a true and correct copy of which is attached hereto as Exh. “G.”

8. The Navy’s Record of Decision for the Final Supplemental Environmental Impact Statement for Guam and Commonwealth of the Northern Mariana Islands Military Relocation (dated Aug. 28, 2015), excerpts from a true and correct copy of which are attached hereto as Exh. “H.” The complete document is available on the Department of the Navy’s website for the SEIS, at <http://guammarines.s3.amazonaws.com/static/20150828%20-%20ROD%20with%20Signature%20-%20FINAL.pdf> (last visited December 9, 2016).

9. Volume 9, Appendix F of the Navy’s FEIS, excerpts from a true and correct copy of which are attached hereto as Exh. “I.” The complete document is available on the Department of the Navy’s website for the SEIS, at [http://www.guambuildupeis.us/documents/final/volume_9/Vol9_AppF_Socioeconomic_Impact_Assessment_Study_\(SIAS\)_and_Land%20_Acquisition.pdf](http://www.guambuildupeis.us/documents/final/volume_9/Vol9_AppF_Socioeconomic_Impact_Assessment_Study_(SIAS)_and_Land%20_Acquisition.pdf) (last visited December 9, 2016).

10. The U.S. Fish and Wildlife Service’s final rule determining “Endangered Status for 16 Species and Threatened Status for 7 Species in Micronesia,” 80 Fed. Reg. 59,424 (Oct. 1, 2015), excerpts from a true and correct copy of which are attached hereto as Exh. “J.”

11. The U.S. Fish and Wildlife Service’s Biological Opinion for the Department of Navy’s Relocation of the U.S. Marine Corps from Okinawa to Guam and Associated Activities on Guam (dated July 31, 2015), excerpts from a true and correct copy of which are attached hereto as Exh. “K.”

12. The U.S. Army’s Final Environmental Impact Statement, Transformation of the 2nd Brigade, 25th Infantry Division (L) to a Stryker Brigade Combat Team in Hawai‘i, Volume 1 (dated May 2004), excerpts from a true and correct copy of which are attached hereto as Exh. “L.” The complete document is available on the website for the U.S. Army Garrison – Hawaii, at <https://www.garrison.hawaii.army.mil/sbctEIS/feis/index.htm> (last visited December 9, 2016).

13. The U.S. Army's Record of Decision for the Final Programmatic Environmental Impact Statement for Army Transformation (dated Apr. 11, 2002), excerpts from a true and correct copy of which are attached hereto as Exhibit "M." The complete document is available on the website for the U.S. Army Garrison – Hawaii, at <https://www.garrison.hawaii.army.mil/sbctEIS/feis/Appendices/Appendix%20A.pdf> (last visited December 9, 2016).

14. The U.S. Marine Corps Forces Pacific's Draft Commonwealth of the Northern Mariana Islands Joint Military Training Environmental Impact Statement/Overseas Environmental Impact Statement (dated April 2015) ("CJMT DEIS"), excerpts from a true and correct copy of which are attached hereto as Exhibit "N." The complete document is available on the U.S. Marine Corps, Pacific's website for the CJMT EIS, at <http://cnmimarines.s3.amazonaws.com/static/DraftEIS/CJMT%20Draft%20EIS-OEIS%20%28April%202015%29.pdf> (last visited December 9, 2016).

15. The Navy's Final Training Needs Assessment: An Assessment of Current Training Ranges and Supporting Facilities in the U.S. Pacific Command Area of Responsibility (dated April 2012, revised March 2013), excerpts from a true and correct copy of which are attached hereto as Exhibit "O." The complete document is available on the U.S. Marine Corps, Pacific's website for the CJMT EIS, at http://www.cnmijointmilitarytrainingeis.com/system/assets/5/original/dtp_eis_tna_03082013.pdf?1362969550 (last visited December 9, 2016).

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1 Respectfully submitted this 16th day of December, 2016.

2 /s/ David L. Henkin
3 DAVID L. HENKIN (*Pro Hac Vice*)
4 EARTHJUSTICE

5 KIMBERLYN K. KING-HINDS
6 LAW OFFICE OF
7 KIMBERLYN K. KING-HINDS

8 Counsel for Plaintiffs
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